

AMENDED IN ASSEMBLY APRIL 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 347

Introduced by Assembly Member Block

February 19, 2009

An act to amend Section 7054 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 347, as amended, Block. Sales and use taxes: failure to furnish information.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, and on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The State Board of Equalization is authorized to administer and enforce that law, ~~as provided~~. Existing law provides that the board or any authorized person may examine the books, papers, records, and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

This bill would authorize the board to impose a 25% penalty, as specified, if during an examination or audit engagement, ~~the a~~ person fails or refuses to furnish any *relevant and reasonable* information requested by ~~the a specified date specified in writing and required by the Sales and Use Tax Law as provided~~. *This bill would also clarify that records include electronic data.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7054 of the Revenue and Taxation Code
2 is amended to read:

3 7054. (a) The board or any person authorized in writing by it
4 may examine the books, papers, records, *including without*
5 *limitation, electronic data*, and equipment of any person selling
6 tangible personal property and any person liable for the use tax
7 and may investigate the character of the business of the person in
8 order to verify the accuracy of any return made, or, if no return is
9 made by the person, to ascertain and determine the amount required
10 to be paid.

11 (b) If, during an examination or audit engagement, any person
12 described in subdivision (a) fails or refuses to furnish any *relevant*
13 *and reasonable* information requested ~~by the date specified in~~
14 ~~writing by the board and required by this part upon notice and~~
15 ~~demand by the board~~, *by the conclusion of the information request*
16 *period*, then, unless the failure is due to reasonable cause and not
17 willful neglect, the board may add a penalty of 25 percent of the
18 amount of ~~tax determined pursuant to Section 6481 or any~~
19 ~~deficiency of tax determined by the board concerning the~~
20 ~~assessment~~ *that portion of the determination* for which the
21 information was required.

22 (c) *For purposes of this section, “the conclusion of the*
23 *information request period” occurs after the board or any person*
24 *authorized has done all of the following:*

25 (1) *Made a verbal request for relevant and reasonable*
26 *information from the person related to the area or areas under an*
27 *examination or audit engagement including alternative sources*
28 *of information in order to substantiate the facts and circumstances*
29 *of the area under examination or audit.*

30 (2) *Subsequent to a person’s failure or refusal to furnish the*
31 *information so requested in paragraph (1), but no earlier than 30*
32 *days from the date of that verbal request, made an initial written*
33 *request for that information that specifies the date on which the*
34 *information is required to be furnished, but in no event shall the*

1 *written request specify a date to furnish the information earlier*
2 *than 30 days from the date of that initial written request.*

3 *(3) Subsequent to a person's continued failure or refusal to*
4 *respond to the requests specified in paragraphs (1) and (2), made*
5 *a follow-up written request for that information that specifies the*
6 *date on which the information is required to be furnished, but in*
7 *no event shall the follow-up written request specify a date to furnish*
8 *the information earlier than 15 days from the date of that follow-up*
9 *written request.*

10 *(4) Subsequent to a person's failure or refusal to respond to the*
11 *requests specified in paragraphs (1), (2), and (3), issued a formal*
12 *notice and demand to furnish the information that specifies the*
13 *date on which the information is required to be furnished, but in*
14 *no event shall the notice and demand specify a date to furnish the*
15 *information earlier than 15 days from the date of that notice and*
16 *demand.*

17 *(5) Subsequent to a person's failure or refusal to respond to the*
18 *formal notice and demand specified in paragraph (4) within the*
19 *date specified, issued a subpoena pursuant to Section 15613 of*
20 *the Government Code for the information described in paragraph*
21 *(1).*

22 *(d) For purposes of paragraph (1) of subdivision (c), the board*
23 *or any person authorized has fulfilled the requirements of making*
24 *a verbal request for the information when the board or the person*
25 *authorized has made good faith effort to contact the person to*
26 *obtain that information, whether telephonically or otherwise, using*
27 *the last known contact information of that person as identified in*
28 *the board's records.*